

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the present amendments and following discussion, is respectfully requested.

Claims 16-43 are pending. Claims 36-43 are newly added. Support for newly added Claims 36, 39, 40, 41, 42, and 43 can be found in Figs. 1-4, and in the published application in numbered paragraph [0022], for example. Support for newly added Claims 37 and 38 can be found in the published application in numbered paragraph [0026], for example. No new matter is added.

In the outstanding Office Action, Claims 16-35 were rejected under 35 U.S.C. § 103(a) as obvious over Mosby (U.S. Patent No. 4,715,172, herein "Mosby") in view of Aron (French Patent No. FR 2,663,189, herein "Aron").

At the outset, Applicants note with appreciation the courtesy of a telephone interview granted by Primary Examiner Kovacs to Applicants representative. The substance of the interview is included below in accordance with MPEP § 713.04.

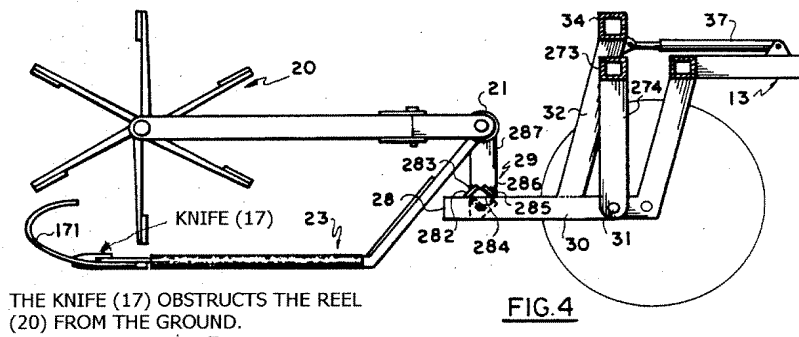
Regarding the rejection of Claims 16 and 31 as obvious over Mosby in view of Aron, that rejection is respectfully traversed by the present response.

Independent Claim 16 recites, in part:

a main frame carrying a first gathering device including a first pick-up and at least a second gathering device including a second pick-up, the first and second pick-ups **configured to move products lying on the ground directly from the ground upward and onto first and second swathing devices**, respectively, and having an inner end located toward a middle portion of the machine, the first and second pick-ups situated substantially one beside another with respect to a direction of travel of the machine traveled during grouping; and

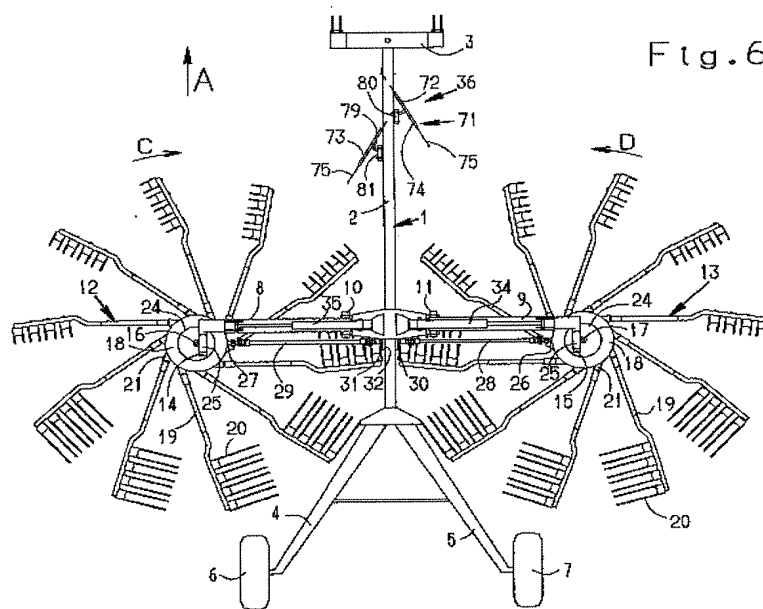
As discussed in the interview, the first and second pick-ups are configured to move products lying on the ground directly from the ground upward onto first and second swathing devices.

In contrast, Mosby describes headers (11) and (12), which each include a reel (20) disposed directly above a sickle knife (17). As discussed in the interview and as shown in annotated Fig. 4 below, the reel (20) does not have direct access to the ground.



Rather, the reel (20) is obstructed from the ground by the sickle knife (17), which is connected to the table area (23). The **reel (20) does not move products lying on the ground directly from the ground** upward onto first and second swathing devices as recited in independent Claim 16. Accordingly, as discussed in the interview, Applicants respectfully submit that independent Claim 16 patentably distinguishes over Mosby for at least the reasons discussed above.

Aron fails to remedy the deficiencies discussed above regarding Mosby. Rather, as shown in Fig. 6, Aron describes two raking wheels (12) and (13) with axes of rotation extending vertically when the raking wheels (12) and (13) are in a working position.



The raking wheels (12) and (13) **do not lift material from the ground**, much less move products lying on the ground directly from the ground upward and onto first and second swathing devices as recited in independent Claims 16 and 31.

Accordingly, Applicants respectfully submit that independent Claims 16 and 31 patentably distinguish over any proper combination of Mosby and Aron for at least the reasons discussed above. Claims 17-30 and 32-41 each depend from one of independent Claims 16 and 31 and patentably distinguish over any proper combination of the cited references for at least the same reasons as those discussed above regarding Claims 16 and 31.

Applicants further respectfully submit that modification of the primary reference, Mosby, to include pick-ups which lift products lying on the ground directly from the ground upward and onto first and second swathing devices as recited in independent Claims 16 and 31 would render Mosby unsuitable for its intended use. MPEP § 2143.01V states:

V. THE PROPOSED MODIFICATION CANNOT RENDER THE PRIOR ART UNSATISFACTORY FOR ITS INTENDED PURPOSE

If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

Mosby is directed to a harvesting machine used to cut a standing crop.¹ Applicants respectfully submit that removal of the sickle knife (17) to expose the reel (20) directly to the ground would prevent Mosby from cutting the standing crop. Accordingly, a person of ordinary skill in the art would not have been led, at the time the claimed invention was made, to remove the sickle knife (17) so as to expose the reel (20) directly to the ground. Thus, not only would no reasonable combination of Mosby and Aron include all of the features recited in independent Claims 16 and 31, but Mosby teaches away from the combination cited in the outstanding Office Action inasmuch as the combination asserted in the outstanding Office Action would render Mosby unsuitable for its intended use.

Applicants wish to make the following additional remarks regarding dependent claims. Dependent Claim 27 recites:

A machine as claimed in claim 16, wherein outer rakes
are situated in front of outer ends of the gathering devices.

Accordingly, as discussed in the interview, the outer ends of the gathering devices include outer rakes.

In contrast, as shown in Fig. 1 of Mosby, the reel (20) described in Mosby does not include outer rakes. Nor does Aron remedy the deficiencies discussed above regarding Mosby in relation to Claim 27. Rather, as discussed above, Aron describes two large raking reels (12) and (13) with vertical axes of rotation. Aron does not teach or suggest outer rakes situated in front of outer ends of gathering devices as recited in dependent Claim 27. Accordingly, Applicants respectfully submit that dependent Claim 27 further patentably distinguishes over any proper combination of Mosby and Aron for at least the reasons discussed above.

Dependent Claim 28 recites:

¹ Mosby, col. 1, lines 5-9.

A machine as claimed in claim 27, wherein the outer rakes are disposed obliquely relative to the direction of travel and are configured to move products toward the first and second gathering devices.

Accordingly, as discussed in the interview, dependent Claim 28 further defines the outer rakes recited in dependent Claim 27 by reciting that the outer rakes are disposed obliquely relative to the direction of travel. Applicants respectfully submit that no proper combination of Mosby and Aron includes outer rakes situated on outer ends of gathering devices, and therefore, the specific arrangement of the outer rakes is not taught or suggested by any proper combination of Mosby and Aron.

Dependent Claim 29 recites:

A machine as claimed in claim 28, wherein the outer rakes are articulated on supports fixed to the first and second gathering devices.

Applicants respectfully submit that as no proper combination of Mosby and Aron include outer rakes as recited in dependent Claim 27, no proper combination of Mosby and Aron would include outer rakes articulated on supports fixed to first and second gathering devices as recited in dependent Claim 29. Accordingly, Applicants respectfully submit that dependent Claim 29 further patentably distinguishes over any proper combination of Mosby and Aron.

Dependent Claims 39-41 recite substantially similar features to those discussed above regarding dependent Claims 27-29, respectively. Accordingly, Applicants respectfully submit that newly added dependent Claims 39-41 further patentably distinguish over any proper combination of Mosby and Aron for at least the same reasons as dependent Claim 27-39 do.

Dependent Claim 33 recites:

A machine as claimed in claim 16, wherein the gathering devices do not include a cutting blade.

Thus, the gathering devices do not include cutting blades.

In contrast, as discussed in the interview, Mosby **requires** cutting blades in order to perform its intended use, and as discussed above, Applicants respectfully submit that modification of Mosby not to include cutting blades would render Mosby **unsuitable for its intended use**. Accordingly, Applicants respectfully submit that dependent Claim 33 patentably distinguishes over any proper combination of Mosby and Aron.

Dependent Claim 34 recites first and second wheels support first and second gathering devices, respectively, positioned at ends of the first and second gathering devices farthest from the inner ends. Newly added dependent Claim 36 recites third and fourth wheels supporting the first and second gathering devices, respectively, the third wheel positioned at an inner end of the first gathering device, and the fourth wheel positioned at an inner end of the second gathering device.

Applicants respectfully submit that, as shown in Fig. 1, Mosby fails to teach or suggest third and fourth wheels positioned at inner ends of the gathering devices as recited in dependent Claim 36. Rather, Mosby merely describes two wheels connected to the tubular beam (21). Accordingly, Applicants respectfully submit that newly added dependent Claim 36 further patentably distinguishes over any proper combination of Mosby and Aron for at least the additional reasons discussed above.

Newly added dependent Claim 37 recites:

A machine as claimed in claim 16, wherein the first and second swathing devices are configured to reverse direction so as to move products toward the middle portion of the machine or in a direction away from the middle portion of the machine.

Accordingly, the **swathing devices are configured to reverse directions** so as to move products toward the middle portion of the machine or in a direction away from the middle portion of the machine.

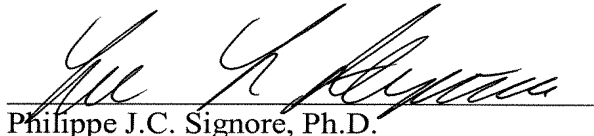
In contrast, neither of Mosby and Aron teaches or suggests making swathing devices reversible as recited in dependent Claim 37. Accordingly, Applicants respectfully submit that newly added dependent Claim 37 and newly added dependent Claim 38, which recites substantially similar features to those recited in dependent Claim 37, patentably distinguish over any proper combination of Mosby and Aron for at least the additional reasons discussed above.

Newly added dependent Claims 42 and 43 recite that the outer rakes are raking disks or raking drums. Applicants respectfully submit that neither of the cited references teaches or suggests outer rakes, much less that the outer rakes are disks or drums.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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